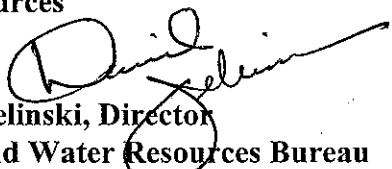


CORRESPONDENCE/MEMORANDUM

STATE OF WISCONSIN

DATE: December 22, 2009

TO: Governor Jim Doyle
Representative Mark Pocan, Co-Chair, Joint Committee on Finance
Senator Mark Miller, Co-Chair, Joint Committee on Finance; and
Chair, Senate Committee on Environment
Senator Kathleen Vinehout, Chair, Senate Committee on Agriculture and
Higher Education
Representative Amy Sue Vruwink, Chair, Assembly Committee on
Agriculture
Representative Spencer Black, Chair, Assembly Committee on Natural
Resources

FROM:  David Jelinski, Director
Land and Water Resources Bureau
Agricultural Resource Management Division
Department of Agriculture, Trade and Consumer Protection

SUBJECT: Transmittal of LWCB Report

I have been directed to transmit the attached report to you. This report is submitted in fulfillment of the requirements in Sec. 9103(4i) of 2009 WISCONSIN ACT 28 that provides as follows:

The land and water conservation board, the department of agriculture, trade and consumer protection, and the department of natural resources shall investigate the board's responsibilities and authorities and shall, before January 1, 2010, report, to the governor, the joint committee on finance, and the appropriate standing committees of the legislature, recommendations for changes in those responsibilities and authorities to reflect changes in this state's soil and water programs.

Please contact Lori Price if you need additional copies of the report. Lori's phone number is (608) 224-4622 and her e-mail address is lori.price@wisconsin.gov. You may also find the report online on the LWCB's webpage at http://www.datcp.state.wi.us/aboutus/partners/aux_brds.jsp.

cc: Mark Cupp, Chair, LWCB
Rod Nilsestuen, Secretary, WI DATCP
Matthew Frank, Secretary, WI DNR
LWCB Members and Advisors

WISCONSIN LAND & WATER CONSERVATION BOARD

Future Roles and Responsibilities

A Report to:
Governor Jim Doyle
The Joint Committee on Finance
The Senate Committee on Agriculture and Higher Education
The Senate Committee on Environment
The Assembly Committee on Agriculture
The Assembly Committee on Natural Resources

December 1, 2009

Prepared by the Land & Water Conservation Board

Submitted by the Department of Agriculture, Trade and Consumer Protection,
Department of Natural Resources and the Land & Water Conservation Board

Preface

The following report on the future roles and responsibilities of the Wisconsin Land and Water Conservation Board (LWCB) is submitted by the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP), the Wisconsin Department of Natural Resources (DNR) and the LWCB pursuant to the legislative directive of 2009 Wisconsin Act 28. Specifically, Section 9103 4i, stated the LWCB, DATCP and DNR “*shall investigate the board’s responsibilities and authorities and shall, before January 1, 2010, report to the governor, the joint committee on finance and the appropriate standing committees of the legislature, recommendations for changes in those responsibilities and authorities to reflect changes in this state’s soil and water programs.*”

To accomplish the task, the LWCB Officers Committee met with DATCP and DNR officials to define the roles and responsibilities of the LWCB in recognition of changes in the Board’s powers and duties due to modification of the Farmland Preservation Program via the Working Lands Initiative and because closing of the DNR’s Priority Watershed Program removed a number of Board responsibilities. However, DNR participation in the process was limited to the final LWCB Officers Committee meeting held on November 19, 2009. The LWCB invited the Board’s advisors, as defined by Wisconsin Statute, to participate in the process. Advisors that participated included the Wisconsin Land and Water Conservation Association (WLWCA), the Wisconsin Association of Land Conservation Employees (WALCE), University of Wisconsin-Extension and the Natural Resources Conservation Service (NRCS). In addition, public comment was sought and received on the final draft of the report. Throughout the process, the LWCB Officers Committee communicated with the full Board on the proposals under consideration. The minutes of the LWCB Officers Committee and the draft minutes from the December 1, 2009, LWCB meeting are attached.

The group used the Strategic Plan adopted by the LWCB in August of 2008, after several months of visioning and planning for the future of the Board, as the basis for discussion. A copy of the LWCB Strategic Plan is attached. (The Strategic Plan provides background on the Board’s mission and vision for the future.) While the intent was to achieve consensus on all points, there were disagreements that were not fully resolved. In those cases where concurrence was not achieved, the report provides comments from the agencies regarding the reasons for non-consensus.

RECOMMENDATIONS

1. LWCB directly approves county Land and Water Resource Management Plans

Currently, the LWCB “recommends” approval of county Land and Water Resource Management Plans by the DATCP Secretary. The LWCB Strategic Plan called for “direct approval” of those plans by the LWCB. The LWCB reviews the county plans on a pre-arranged schedule that provides 2-4 county plans to be presented at each Board meeting. The Board has recommended revising the timetable for plans from a five-year period to a ten-year period with periodic review to assure the plans are reflective of county land and water resource management activities and priorities.

LWCB Recommendation: Modify Wisconsin Statutes to provide LWCB authority for direct approval of county Land and Water Resource Management Plans.

DATCP Recommendation: DATCP does not concur with the LWCB recommendation because the current system does not need to be changed by statute. Historically, DATCP has ensured that every plan presented to the Board meets legal requirements for approval, enabling the Board to make recommendations that DATCP has followed in issuing final plan approvals.

DNR Recommendation: The current process does not require DNR to approve or even recommend approval of the Land and Water Resource Plans. The review and approval of the Land and Water Resource Management Plans is a sole function of DATCP. DNR abstains from recommendation on this LWCB activity.

2. Review and comment on nonpoint fund expenditures (i.e., Joint Allocation Plan)

Currently, the LWCB reviews and comments on the annual Joint Allocation Plan, which is the most critical and often the most contentious element of state-funded and county-delivered conservation work in Wisconsin. While the LWCB considered the option to request direct approval of the Joint Allocation Plan, the decision was made to forego the direct approval option. The action was taken

largely in deference to the respective agency Secretaries, who include expenditures for the Joint Allocation Plan within agency budgets.

Some of the flaws and gaps in the process of developing and reviewing the Joint Allocation Plan include:

- Need for enhanced participation and input from county governments, especially in determining “state priorities for conservation funding;
- Other land and water conservation funding programs are developed and decided outside of the Joint Allocation Plan that have great influence on county delivery of conservation work;
- Lack of adequate funding to accomplish program objectives, especially funding for county staffing; and,
- Lack of a “central voice” to advocate for state-funded, county-administered conservation work in Wisconsin.

Several proposals were discussed to create an expanded role for the LWCB in developing and reviewing the annual Joint Allocation Plan, including:

- Use the LWCB’s forum function to gather public input on conservation funding – both funding priorities and funding sources (with priority going to sustaining a core of county staffing);
- Allow LWCB to convene a meeting of the many stakeholders to develop consensus on funding sources and priorities;
- In developing that consensus, make other funders (e.g., DNR grant programs, NRCS, etc.) aware of consensus-based priorities so those funders could align their funding priorities with this consensus, thereby, better integrating conservation funding in Wisconsin across agencies;
- Advocate for those priorities and funding strategies to the Governor, Legislature and other agencies.

LWCB Recommendation: Continued LWCB review and recommendation regarding approval of the annual Joint Allocation Plan with the formal final approval of the plans retained by the DATCP and DNR Secretaries. LWCB would significantly expand involvement in development of the annual Joint Allocation Plan through the aforementioned methods. LWCB involvement would begin in February of each year to allow for gathering of input from stakeholders and the public to be translated to consensus on the Joint Allocation Plan in time for submittal to the LWCB at the August meeting.

Final approval by the DATCP and DNR Secretaries should follow as expeditiously as possible to provide counties with allocation information prior to finalization of county annual budgets.

DATCP Recommendation: Concurrence provided that the LWCB actions (including solicitation of public input) are performed in a timely and efficient manner and within constraints of budget directives from DOA.

DNR Recommendation: Concurrence with DATCP position.

3. Evaluate land and water conservation and nonpoint pollution programs

Currently, Wisconsin Statutes, state, *"the Board shall require DATCP and DNR to conduct, or contract with another person to conduct, any evaluation of the program under this section."*

LWCB Recommendation: The LWCB should continue involvement in program evaluation but the statute should be modified from "shall require" to "may require" evaluations be conducted. In addition, under LWCB powers, Wisconsin Statutes should reflect the Board's ability to advise DATCP, DNR and the Legislature on matters related to land and water conservation and nonpoint pollution programs.

DATCP Recommendation: DATCP concurrence subject to the availability of funds specifically for this purpose.

DNR Recommendation: Concurrence within limited financial resources available.

4. Advise the UW System on needed research and education

The LWCB officers acknowledged that the UW System is a huge institution with scores of constituencies and influencing the UW System can be a Sisyphean task, nonetheless, a task that must be done given the UW System's influence on agriculture and conservation.

LWCB Recommendation: Include representative(s) of the UW System directly at the LWCB meeting table so their participation is more formal and direct (albeit non-voting) and the mutual interests of the LWCB and UW System are more clearly linked. The LWCB would recommend to the UW

System the need for research and education related to land and water conservation.

DATCP Recommendation: DATCP concurs with LWCB recommendation.

DNR Recommendation: DNR concurs with LWCB recommendation.

5. Provide a forum for discussion of emerging issues related to soil and water conservation

The LWCB initiated a foray into the provision of forums by hosting a major forum on groundwater contamination in karst areas. The forum was held in Appleton in April of 2008 and was well attended. The LWCB officers felt strongly that the forum role provided by the Board should be retained and expanded.

LWCB Recommendation: "Forum" can be widely defined, from a public hearing-type session to air implication and impacts on emerging conservation issues, to the LWCB being the convening body for developing consensus on the annual Joint Allocation Plan. The LWCB will focus the forum function in the coming months to gather input and develop consensus on funding of land and water conservation program via the 2011 Joint Allocation Plan and the biennial budget requests of DATCP and DNR for land and water resource management.

DATCP Recommendation: Concurrence provided that the activity can be accomplished within limited financial resources available.

DNR Recommendation: Concurrence within limited financial resources available.

6. Build linkages to the ATCP and NR boards

Communication between the LWCB and governing boards of DATCP and DNR is sporadic at best and is communicated by agency staff when that communication does occur. While the respective agency Secretaries formerly participated in LWCB deliberations on a routine basis, the former level of participation no longer occurs for a variety of reasons. While the LWCB does not recommend a joint meeting of the three Boards, there is the need for enhanced and more direct communication between the LWCB and the agency Boards.

LWCB Recommendation: The LWCB Chair (or his/her designee) should be granted an audience (20-30 minutes) with each agency board on an annual basis to provide an update on land and water conservation activities and concerns. The LWCB Chair or designee could provide information on issues identified by forums hosted by the LWCB or offer comment on funding for conservation in Wisconsin.

DATCP Recommendation: DATCP concurs with LWCB recommendation.

DNR Recommendation: DNR concurs with LWCB recommendation.

7. Serve a role in protecting working lands in Wisconsin

While changes to the Farmland Preservation Program (FPP) were expected during the LWCB Strategic Planning process, the actual outcome of those changes under the Working Lands Initiative (WLI) was not known when the Strategic Plan was adopted by the Board. Changes to the Board's responsibilities under the revised FPP require statutory modifications as will the closing of the Priority Watershed Program.

LWCB Recommendation: The LWCB will continue to review appeals to existing farmland preservation agreements. An area to monitor for LWCB/WLI overlap is the continuing requirement that farmers receiving tax credits under WLI must be compliant with a conservation plan. The LWCB should communicate with county staff on a regular basis to determine if compliance is achieved.

DATCP Recommendation: Concurrence, provided that monitoring is conducted for the purposes of reviewing "existing" farmland preservation agreements (and not activities "under the WLI") and within limited financial resources available.

DNR Recommendation: Concurrence with DATCP position.

8. LWCB Membership

The LWCB Officers Committee discussed ways to strengthen the Board and enhance the role played by the Board's statutorily listed advisors. Due to federal restrictions, the inclusion of certain advisors as "ex officio" members was precluded. In addition, the LWCB officers recognized the need to make the

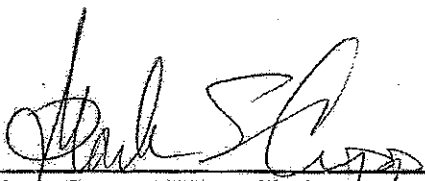
advisors attendance more meaningful to warrant the amount of time committed to LWCB meetings. The LWCB officers also expressed a commitment to maintaining the current membership of the Board.

LWCB Recommendation: Advisors should be seated at the LWCB table as non-voting members and participate in Board deliberations freely. (A list of LWCB advisors is attached.)

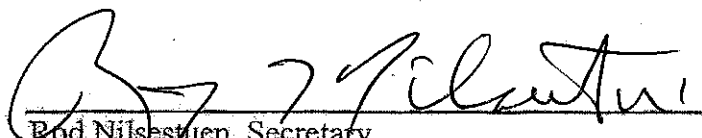
DATCP Recommendation: DATCP concurs with LWCB recommendation.

DNR Recommendation: DNR concurs with LWCB recommendation.

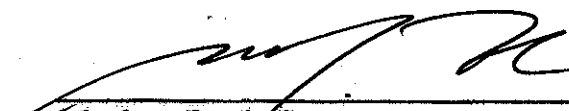
Respectively submitted by:



Mark Cupp, LWCB Chair 12/15/09
Date



Rod Nilsen, Secretary 12-17-09
Date
Wisconsin Department of Agriculture, Trade and Consumer Protection



Matthew Frank, Secretary 12-18-09
Date
Wisconsin Department of Natural Resources

Distribution List:

Governor Jim Doyle

Representative Mark Pocan, Co-Chair, Joint Committee on Finance

Senator Mark Miller, Co-Chair, Joint Committee on Finance; and Chair, Senate
Committee on Environment

Senator Kathleen Vinehout, Chair, Senate Committee on Agriculture and Higher
Education

Representative Amy Sue Vruwink, Chair, Assembly Committee on Agriculture

Representative Spencer Black, Chair, Assembly Committee on Natural Resources

LWCB Members and Advisors

Rod Nilsestuen, Secretary, WI DATCP

Matthew Frank, Secretary, WI DNR

Attachments to the Report:

Current List of LWCB Members and Advisors

Draft December 1, 2009, LWCB Meeting Minutes

November 19, 2009, LWCB Officers Meeting Minutes

September 16, 2009, LWCB Officers Meeting Minutes

August 17, 2009, LWCB Officers Meeting Minutes

August 2008 LWCB Strategic Plan

**CURRENT LIST OF LWCB
MEMBERS AND
ADVISORS**



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DRAFT DECEMBER 1, 2009, LWCB MEETING MINUTES
NOVEMBER 19, 2009, LWCB OFFICERS MEETING MINUTES
SEPTEMBER 16, 2009, LWCB OFFICERS MEETING MINUTES
AUGUST 17, 2009, LWCB OFFICERS MEETING MINUTES

**DRAFT MINUTES
LAND AND WATER CONSERVATION BOARD
MEETING
December 1, 2009**

**Boardroom 106, DATCP
2811 Agriculture Drive, Madison, Wisconsin**

**Item #1 Call to Order--open meeting notice, approval of agenda, and approval of
LWCB meeting minutes**

The meeting was called to order by Chairman Cupp at 10:00 a.m. with the pledge of allegiance. Other LWCB members present were: Tom Rudolph, Denny Caneff, Sandi Cihlar, Chuck Wagner, Ken Johnson for the DNR Secretary, Jana Steinmetz for the DOA Secretary, and Kathy Pielsticker for the DATCP Secretary. A quorum was present. Advisors present were: Julian Zelazny, WLWCA; Don Baloun for Pat Leavenworth, NRCS; and Kurt Calkins, WALCE.

Cupp confirmed with Lori Price that the meeting had been publicly noticed, as required. Cupp then presented the agenda for approval. Rudolph made a motion to approve the agenda, and Wagner seconded the motion. The motion passed. Cupp presented the October 6, 2009, LWCB meeting minutes for approval. Wagner made a motion to approve the minutes as written, and Caneff seconded the motion. The motion passed. Cupp then presented the November 19, 2009, LWCB Officers meeting minutes for approval. Two changes on page one, Item #2, were made to the minutes: in the 2nd paragraph, last sentence, substitute "LWCB Officers" for "they"; and under the 2nd bullet include "legislature" in "... shall advise legislature, DNR," Rudolph made a motion to approve the amended minutes, and Caneff seconded the motion. The motion passed.

Cupp welcomed Johnson as the new DNR representative to the LWCB. Johnson introduced himself as the Regional Water Leader for DNR's South Central Region. On January 1st he will be temporarily assigned as Deputy Director of DNR's Watershed Management Bureau until March 31, 2010. He looks forward to learning more about the LWCB. The LWCB members and advisors introduced themselves.

Item #2 Public appearances

Lori Grant with Wisconsin River Alliance, Steve Born with Trout Unlimited, Amber Meyer Smith with Clean Wisconsin, Glenn Licitar with the Adams County Planning and Development Committee, and Chris Murphy with Adams County Land Conservation Department appeared before the LWCB to comment on Agenda Item #4 on the preliminary 2010 allocation plan. Their collective comments were: fully fund the county staffing portion of the allocation plan by using money from the nutrient management cost-share funds to make up for the portion that was removed from the county staffing funds; the legislature's directive to fully fund county conservation staff in the last biennial budget process was not being followed in the current allocation plan; county conservation staff are important for the delivery of programs at the local

level; and request that the LWCB not recommend approval of the allocation plan until the county staffing funds have been restored. Licitar also requested that the allocation plan restore the funding for county LCC supervisors training provided by WLWCA.

Item #3 Discuss draft joint LWCB, DATCP, and DNR report on recommended statutory changes to the LWCB's responsibilities and authorities

The discussion began with hearing LWCB comments on the draft report. Comments included: the report was similar to the strategic plan written in 2008, concern with whether this will be a combined report between the agencies and the LWCB, and members from each of the WLWCA regions should be included on the LWCB membership. In response to the concern about the report being a joint one, Cupp stated that a joint report will be done but the report will express various opinions where there may be some disagreement. Pielsticker then presented DATCP's responses to the report. The following concurrences or changes were made to the report following discussion of DATCP's responses and other changes requested by LWCB members:

- DATCP concurs with draft Report Recommendations 4, 6, and 8 without modification.
- DATCP concurs with draft Report Recommendation 2 with the clarification that the LWCB's role is to "review and recommend" approval of the joint allocation plan, provided that the LWCB involvement (including solicitation of public input) can be accomplished in a timely and efficient manner.
- DATCP concurs with draft Report Recommendation 5, provided this activity can be accomplished with the limited financial resources available.
- DATCP concurs with draft Report Recommendation 7, provided that monitoring is conducted for the purposes of review of "existing" farmland preservation agreements (and not activities "under the WLI") and within the limited financial resources available.
- DATCP does not concur with draft Report Recommendation 1 because the current system does not need to be changed by statute. Historically, DATCP has followed Board recommendations regarding plan approval.
- DNR tentatively concurs with DATCP position on Recommendations 2-8, and abstains on Recommendation 1.
- Under Recommendation 3, the Board changed "may recommend" in the draft Report to "may require" in the Final Report in order to give the LWCB authority to require evaluation of public conservation programs. This change will move the activity from Board duties to Board powers. With this change, DATCP revised its initial concurrence without modification, and concurs with this change within the limited financial resources available and pending consultation with department legal counsel.
- Small grammatical changes such as capitalizing Board, other agency names, and conservation programs. Also, add acronyms where needed.
- To Recommendation 2 add the verbiage, "final approval by the DATCP and DNR Secretaries should follow as expeditiously as possible to provide counties with allocation information prior to their finalization of county annual budgets."

There was discussion on adding additional WLWCA area representatives to the LWCB, but it was decided to leave this proposal for future discussion. There was also discussion to include specific statutory changes in the document but it was decided that this will probably be addressed in the future after the Governor and legislative committees have had a chance to review the overall recommendations.

Rudolph made a motion for the LWCB to accept the report with changes, and upon DATCP and DNR concurrence with Recommendation 3 change. Wagner seconded the motion. The motion passed.

Item #4 2010 DATCP and DNR joint allocation plan: Presentation of preliminary allocation and waiver of deadline for adoption—Richard Castelnuevo, DATCP; and John Pfender, DNR

Pfender presented the DNR portion of the plan first. He reported that DNR budget lapses came out of GPR and Urban Nonpoint Source Planning (UNPS) grants. DNR did not receive any applications for UNPS planning or construction grants this year so the amount listed on Chart 1 of the allocation plan is zero. DNR did receive 53 applications for Targeted Runoff Management (TRM) projects, and DNR will fund 39 projects for \$4.512 million. DNR is proposing an \$880,701 Notice of Discharge (NOD) reserve for next year. Table B indicates counties receiving TRM money. He pointed out counties that will receive multiple grants. This allocation will leave \$5 million to spend between TRM and NODs in 2011 provided DNR does not have to take additional lapses. If DNR has to take more lapses, this amount will go down. Pfender asked that the allocation plan process move along as quickly as practical because DNR is ready at this time to make its 2010 TRM grant awards, and DNR will be unable to make any NOD grant awards with next year's NOD reserve until the allocation plan is signed. Cihlar asked for clarification on TRM projects that cannot be funded under this allocation. Pfender explained that more requests came into DNR than can be funded. Project requests that did not make it the first time can be resubmitted in the next grant process. Caneff asked Calkins for an example of a TRM grant project done in Columbia County. Calkins gave an example of a farm operation where animal waste was leaking into Lake Wisconsin. The problem was fixed with the use of filter strips and water diversions. Pfender added that farmers are required to provide their share of the project cost, which they could obtain from NRCS' EQIP program. Calkins added that a farmer can also declare economic hardship to get assistance for the project. The LWCB then discussed recovering funds from farmers who go out of business after receiving the project money. Caneff suggested that the LWCB consider an evaluation of how good is the return on public investment in cost-share.

Castelnuevo then presented DATCP's portion of the allocation plan. To release this preliminary allocation plan, DATCP had to make its best determination of funds available for allocation, including required lapses. DATCP simplified the allocation by eliminating the Tier 3 funding approach and relying on the first two tiers as endorsed by the counties. With the funds anticipated for Tier 2, DATCP will not be able to fund any third positions and will have to reduce funding for all of the second positions. The \$250,000 cut to county staffing funds was a consequence of the lapses required of DATCP by the Department of Administration, which will determine the funding amounts in the final allocation plan. The nutrient management funds are

subject to a \$3.5 million lapse and this cut will negatively impact support for tools used in nutrient management and farmer assistance. He noted that DATCP funding is responsible for the significant increase in participants in nutrient management training. It is possible that the funding set aside for nutrient management may not remain at the time of final allocation. Pielsticker added that the 3% cut to county staff funds is in line with reductions already taken in all state operations. Castelnuevo commented that DATCP had to pare down the funding to cooperators, such as WLWCA, in order make up some of the cost in county staffing. Pielsticker added that the department focused on funding core activities, with no room for optional items. Castelnuevo stated that the comment period for the plan will run until December 31st, and the final plan is on schedule to be presented to the LWCB at the February 2, 2010, meeting.

After the presentations, Board members and advisors commented on the allocation plan. Rudolph commented that he is in favor of maintaining county staff funding levels. The counties are not in a good position to add additional money for staffing. Wagner commented he would like to see staffing dollars maintained. Caneff was in favor of taking the lapse from nutrient management funds rather than county staffing. Calkins suggested that if DOA maintains the \$1 million for nutrient management, DATCP should consider shifting the \$250,000 cut from staffing grants to the nutrient management cost-sharing. If staffing funds are not restored, it could be a turning point for some counties on whether to continue land and water conservation programs. Cihlar suggested that the UW and Technical College systems absorb some of the costs associated with nutrient management activities. Zelazny disagreed with the analogy that county staff funding should take a 3% cut because the state is experiencing cuts. Counties have already been dealing with their own cuts, and county staffing has never been fully met over time. Even with level staff funding, the counties are looking at a large decrease in funds. Zelazny commented that he was also disappointed with the funding cuts for the LCC supervisor training and the Conservation Observance Day event. Rudolph added that there will be county supervisor elections coming up in April 2010, and the LCC supervisor training is needed to train the newly elected county LCC supervisors.

Caneff commented that the allocation plan discussion emphasized the importance the LWCB can play as a central hub for discussion on funding the allocation plan. The LWCB can be an organized voice to take concerns to the legislature.

Item #5 Recommendation for approval of the Marquette County Land and Water Resource Management Plan—Patrick Kilbey, Marquette County LWCD; and Justin Shell, DATCP

Kilbey presented the Marquette County LWRM plan to the LWCB for an approval recommendation. His presentation covered the geographical makeup of the county; accomplishments over the last five years; major resource concerns; new plan priority goals and objectives; and other areas the county LWCD is involved with such as non-metallic mine reclamation, invasive species, wildlife damage, shoreland zoning, recycling, and the Montello River Watershed phosphorus study.

After the presentation, LWCB members discussed with Kilbey aspects of the Montello River Watershed phosphorus study such as amount of irrigated acreage, education and information

activities, project outcomes, and source of phosphorus; if the plan goals can be achieved without the additional LWCD staff; problems with aquatic invasive species; updating the county waste storage ordinance; and providing engineering assistance on animal waste storage projects.

Wagner made a motion for the LWCB to recommend approval of the Marquette County Land and Water Resource Management Plan. Rudolph seconded the motion. The motion passed.

Item #6 Recommendation for approval of the Douglas County Land and Water Resource Management Plan—Christine Ostern, Douglas County LWCD; and Dennis Presser, DATCP

Ostern presented the Douglas County LWRM plan to the LWCB for an approval recommendation. Her presentation covered the geographical makeup of the county; highlights of conservation activities from 2005 to the present; the LCD budget; snapshot of various projects completed within the last 5 years; the aquatic invasive species program; the student intern projects; technical assistance provided to citizens and governmental agencies; and the newly revised plan goals, guiding principles, changes, realities, progress tracking, and priorities including the NR 151 implementation strategy.

After the presentation, the LWCB members discussed with Ostern having the LWCB receive a report on the 10-year plan at the 5-year mark to hear about the plan's progress, and maintaining the county transportation system due to the soil types that present challenges to stabilization and nonpoint source pollution. Rudolph made a motion for the LWCB to recommend approval of the Douglas County Land and Water Resource Management Plan. Caneff seconded the motion. The motion passed.

Item #7 Recommendation for approval of the Polk County Land and Water Resource Management Plan—Tim Ritten, Polk County LWCD; and Justin Shell

Ritten presented the Polk County LWRM plan to the LWCB for recommendation of approval. His presentation covered the makeup of the citizens advisory committee; the structure of the LCD; the goal to protect surface and ground water; the importance of surface water to the county; resource issues; the plan goals related to protecting surface and ground water, and supporting the LCD and volunteers that put the conservation practices on the ground; and LWRD funding.

After the presentation, the LWCB discussed with Ritten the use of tax dollars from lakeshore property owners to support conservation staff and activities; the LWRD interaction with the county forestry department; and the difference in staff time spent on plan goals. Cihlar made a motion for the LWCB to recommend approval of the Polk County Land and Water Resource Management Plan. Rudolph seconded the motion. The motion passed.

Item #8 Selection of the 2010 LWCB Officer Nominating Committee—Mark Cupp

Cupp appointed Steinmetz, Cihlar, and Wagner to the 2010 LWCB Officer Nominating Committee. The committee will report back to the LWCB with their officer nominations recommendations at the February 2, 2010, meeting.

Item #9 Approval of the 2010 LWCB annual agenda—Richard Castelnuevo

Castelnuevo presented the proposed 2010 LWCB annual agenda to the Board. In discussing proposed agenda items, he noted that there will probably not be a 2010 supplemental allocation at the April meeting and the department will strive to have a preliminary allocation plan to present to the LWCB in August. The LWCB discussed the proposed agenda and added a forum on conservation funding and other means to deliver conservation work. Wagner made a motion for the LWCB to approve the amended 2010 annual agenda. Rudolph seconded the motion. The motion passed.

Cupp commented that the LWCB Officers will continue to meet bi-monthly to review the regular meeting agendas and prepare for the June forum. Also, starting with the February 2nd meeting, the LWCB advisors will sit at the table with the LWCB members. Cupp reported that he has not had a chance to send a letter to UW CALS and Extension requesting their participation on the LWCB, but he will do so before the next meeting.

Item #10 Agency reports

a. FSA

No report was given.

b. NRCS

Baloun handed out copies of the 2009 NRCS Wisconsin Report. He reported that Patricia Leavenworth is done with her work in Washington D.C. and is back in Wisconsin. Like state and local governments, the NRCS Wisconsin office is also struggling with budget and staffing issues.

c. UW-CALS

No report was given.

d. UW-Extension

No report was given.

e. WALCE

Calkins announced that the 2010 WALCE Professional Improvement Conference will be held on March 3-5, 2010, at the Radisson Hotel in LaCrosse. He invited the LWCB members and other advisors to attend. He also announced that DATCP staff will be discussing Working Lands Initiative challenges with the counties on December 9th at the Radisson Hotel in LaCrosse prior to the start of the WLWCA Annual Conference.

f. WLWCA

Zelazny handed out a written report on WLWCA activities and reminded the LWCB of next week's WLWCA Annual Conference in LaCrosse.

g. DATCP

Pielsticker reported that the LWCB may have to meet by teleconference on December 30th to review an exclusive agricultural zoning ordinance extension. LWCB action taken at this meeting is essential to ensuring that the affected farmers can receive tax credits. The meeting would be short and last one hour at most. The LWCB members marked this date on their calendars and will await further confirmation from DATCP staff within the next couple of weeks.

Pielsticker also gave an update on the Working Lands Initiative activities. There were 5 county training workshops, 6 local government workshops, and 20 individual informational presentations that took place in October and November. Staff are writing informational materials and supplying a lot of one-on-one assistance. The Farmland Preservation planning grant application has been distributed, the Farmland Preservation zoning application form has been developed, and the Agricultural Enterprise Area petition has been sent out. The Purchase of Agricultural Easement Council (PACE) has met twice and is scheduled to meet again in December. The PACE grant application and ranking materials have been put together.

Pielsticker also reported that the Emerald Ash Borer was found in Oak Creek and Franklin. Plant Industry staff will continue EAB visual survey throughout the winter months. EAB information and education activities are also taking place. DATCP is also putting together proposals for the Great Lakes Restoration Initiative (GLRI). Also, there has been a 126% increase in farmer participation in nutrient management training. Lastly, the state budget situation is still looking bleak.

h. DNR

Johnson reported that DNR is coordinating the GLRI proposal response to EPA. Federal money will be used for GLRI projects and no matching money will be required. He also reported that DNR has been working on an update to NR 115 on shoreland zoning and after 7 years, there has been a recent compromise where the legislature may now approve the changes. The issues with NR 115 changes have been with nonconforming uses and setback distance.

Adjourn

Rudolph made a motion to adjourn the meeting, and Caneff seconded the motion. The motion passed, and the meeting adjourned at 3:10 p.m.

Respectfully submitted,

Denny Caneff, Secretary

Date

Recorder: LP

MINUTES
LAND AND WATER CONSERVATION BOARD
OFFICERS TELECONFERENCE MEETING
November 19, 2009

Room 411, DATCP
2811 Agriculture Drive, Madison, Wisconsin

Item #1 Call to order: open meeting notice, roll call, approval of agenda, and approval of August 17, 2009, meeting minutes

Chairman Cupp called the meeting to order at 10 a.m. at DATCP and confirmed with Price that the meeting was properly noticed. Other LWCB officers present were Tom Rudolph by phone and Denny Caneff in person and later by phone. LWCB Advisors present were Perry Lindquist for Kurt Calkins, WALCE, by phone; Julian Zelazny, WLWCA; Don Baloun for Patricia Leavenworth, NRCS. DNR staff present was Ken Johnson. DATCP staff present were Kathy Pielsticker, Dave Jelinski, and Lori Price.

Cupp presented the agenda for approval. Rudolph made a motion to approve the agenda, and Caneff seconded motion. The motion passed.

Item #2 Continue discussion on joint LWCB, DATCP, and DNR report on recommended statutory changes to the LWCB's responsibilities and authorities—public comments received on draft report and discuss draft of final report

Cupp reported that four comments on the draft report were received. The comments were from Dorothy Bacon of Menomonie, WALCE and WLWCA jointly; Adams County Planning and Development Committee; and Linda Zillmer of Birchwood.

Initial reactions from the Officers on the comments were that the comments from WALCE/WLWCA were pertinent and should be considered, particularly strengthening the role of LWCB in the allocation plan, and that the comments from the citizens reinforce that more attention needs to be paid to land and water conservation. The Officers and advisors then discussed the joint comments presented by WLWCA and WALCE. As a result, the LWCB Officers decided on the following changes to the draft report:

- Move the program evaluation language from Chapter 281 to Chapter 92 including it under the LWCB's general powers section
- Add under Chapter 92.04 (2)(a) that the LWCB shall advise the legislature and DNR, as well as DATCP, on matters relating to programs under Chapters 92 and 281, and clarify that those programs are related to water conservation and nonpoint source water pollution control.

The Officers also supported WLWCA and WALCE's comments that the LWCB membership recommendations be codified into the LWCB bylaws. Cupp commented that the LWCB will consider this change the next time it reviews its bylaws.

The group then discussed whether to include statutory language changes directly into the report and the possibility that the report may be a joint one with areas where the agencies and the LWCB do not agree.

Item #3 Review assignments and presentation of the final report to the LWCB

Cupp will make the suggested changes to the draft report with space after each item for state agencies' comments, which could be concurrence or disagreement. He will send the draft to the other Officers for review prior to sending it to the LWCB before the December 1st meeting. The draft document will be presented to the LWCB on December 1st with state agencies' review pending. It is possible that a special meeting of the LWCB may have to be held in later December to give final approval to the report.

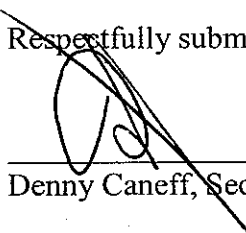
Item #4 Discussion of LWCB agenda for December 1, 2009, meeting

The Officers decided to move the draft final report discussion after the call to order in the morning and allow 90 minutes for discussion of the report. The Marquette County LWRM plan presentation and agency reports were moved to the afternoon to accommodate the report discussion.

Adjourn

Rudolph made a motion to adjourn the meeting, and Caneff seconded the motion. The motion passed, and the meeting ended at 11:50 a.m.

Respectfully submitted,



Denny Caneff, Secretary

12/1/09

Date

Recorder: LP

MINUTES
LAND AND WATER CONSERVATION BOARD
OFFICERS TELECONFERENCE MEETING
September 16, 2009

Room 411, DATCP
2811 Agriculture Drive, Madison, Wisconsin

Item #1 Call to order: open meeting notice, roll call, approval of agenda, and approval of August 17, 2009, meeting minutes

Chairman Cupp called the meeting to order at 1 p.m. at DATCP and confirmed with Price that the meeting was properly noticed. Roll call was taken. Other LWCB officers present at DATCP were Tom Rudolph and Denny Caneff. LWCB Advisors present were Kurt Calkins, WALCE, by phone. DATCP staff present were Kathy Pielsticker, Dave Jelinski, and Lori Price.

Cupp presented the agenda for approval. Rudolph made a motion to approve the agenda, and Caneff seconded motion. The motion passed. Cupp then presented the August 17, 2009, meeting minutes for approval. Rudolph made a motion to approve the minutes as written, and Caneff seconded the motion. The motion passed.

Item #2 Continue discussion on joint LWCB, DATCP, and DNR report on recommended statutory changes to the LWCB's responsibilities and authorities

Caneff started the discussion by reporting on the tasks he was assigned to complete from the last Officers' meeting. He had talked with both NRCS and FSA staff about participating on the LWCB as ex officio members. NRCS staff declined to participate on the LWCB because of their financial relationship with DATCP. FSA staff requested to see the final LWCB report before deciding whether or not to participate. Caneff attempted to contact DNR staff to clarify their role on the LWCB but received no response back prior to today's meeting. The Officers agreed that a letter should be sent to the DNR Secretary requesting clarification of the agency's role on the LWCB and DNR's effort in the report. Pielsticker is planning on talking with Todd Ambs of DNR later in the week and offered to pass along the Officers' message. Cupp suggested that if NRCS and FSA cannot join the LWCB as ex officio members, they could still physically sit at the Board's table along with the other advisors. The group then continued discussion on the specific LWCB activity areas.

Review and comment on the current allocation plan for nonpoint expenditures. Caneff reviewed the highlights document that mainly focused on the allocation plan discussion from the August 17th Officers meeting. Pielsticker reported she spoke with the DATCP Secretary on the LWCB directly approving the allocation plan. The Secretary's thoughts on this were that the LWCB can play a role in gathering input on the plan and getting stakeholders more

interested in the plan. However, it was unlikely that DATCP would want to give up the approval role because the allocation plan is part of the agency's budget. Piesticker added the Secretary agreed that obtaining more county input on the allocation plan and including more of the grants already going to counties for land and water conservation would be beneficial and would likely strengthen support for these programs among legislators

The group then discussed the LWCB taking a more active role in the discussion, decision, and advocacy of the allocation plan. Suggestions for achieving this more active role included:

- serve as venue for discussion with DATCP and DNR on various funding sources
- help lead discussions and enhance dialogue with stakeholders
- look at options for funding
- create a consensus between stakeholders
- make plan recommendations to Secretaries
- convey an agreed-upon allocation plan message to the Governor and legislature

The group also talked about the possibility of developing a scoring method that would help to address local priorities, the importance of stabilizing the core county staff to administer the programs, a better alignment between county budget year and state grant year, and the LWCB goal in this area should be set high and not low because of tough budget times. Cupp commented that the LWCB would need to start any discussion on the allocation plan with stakeholders by February of each year prior to the preliminary allocation plan being presented to the LWCB.

Directly approve LWRM plans. Pielsticker reported that she had discussed LWCB direct approval of county LWRM plans with the DATCP Secretary. The Secretary was not comfortable with this possible change because he was concerned with the duplication of rule-making authority. They discussed the possibility of delegating the Secretary's authority to approve the plans to the LWCB in order to avoid having to make any statutory changes. The Officers then discussed whether if both the statute and administrative rule would need to be updated, or if a new rule would have to be promulgated, or if the statutory change to Chapter 92 as suggested in the original strategic plan would suffice. Jelinski clarified that both Chapter 92 and ATP 50 would need to be updated to reflect a statutory change. The Officers agreed that the Secretary would need to be comfortable with whatever they propose. Pielsticker offered to get DATCP legal counsel clarification on whether the statute could be changed as was suggested by the LWCB in their strategic plan and the LWCB could perform this function under ATP 50 as promulgated by DATCP, without making a new rule.

Advise the UW system on needed research and education. The Officers decided to keep this activity with an added sentence on greater inclusion of advisors in discussion in addition to specific outreach at needed times. There was discussion on adding evaluation to this activity but the Officers agreed that Chapter 92 gives the LWCB enough authority for program evaluation activities.

Build communication linkages with state NR and ATP Boards. Pielsticker reported she spoke with the Secretary on this activity. He did not have a problem with LWCB members

attending the NR and ATCP Boards meetings to give updates on LWCB activities. However, he did not anticipate the three boards could meet together due to the difficulties in setting up such a large meeting. Pielsticker did suggest that the Secretary could periodically include an update on key LWCB activities to the ATCP Board as part of his agency update at their regular meetings. If the LWCB chooses to have a member attend the ATCP Board meetings and give an update, the LWCB has to keep in mind that normally this would include a written report that will need to go through the review process that all ATCP Board meeting documents go through before they are included with the package sent to the ATCP Board and then published. Pielsticker offered to share ATCP Board agendas and materials with the LWCB at the time the materials are released, so that the LWCB can be aware in advance of topics that might be of interest to them. She offered to also share the presentation materials that come out of the ATCP Board meetings with the LWCB. Cupp reiterated that his vision of this activity was for a LWCB member to go before each agency board with a brief report once a year.

Serve a role in protecting working lands in Wisconsin. Jelinski reported that with the passing of the Working Lands Initiative, the farmland preservation agreements and zoning ordinances will now go through a self-certification process, the DATCP Secretary will directly approve the agricultural enterprise areas upon recommendation by the ATCP Board, and the new PACE Council will deal with the easements. However, the LWCB will still have a role in hearing appeals on Farmland Preservation Agreements currently in effect. DATCP wants to see how the WLI works before adding more layers to it. The statute requires the agency to report on the program every two years. Perhaps that would be the time that the LWCB would want to comment on whether to be involved with the program. The LWCB can address the area of conservation compliance and discuss securing enough county staff funding to support the WLI through the allocation plan process

Provide a forum for discussion of emerging issues related to soil and water conservation, recommend policy options to address soil and water conservation issues based upon citizen input, and recommend funding priorities to agencies during the state budget cycle. The Officers decided there was no change from the last meeting to keep these activities.

Possible other activities for LWCB to consider. Calkins commented that at last week's WALCE fall conference, it was suggested that the LWCB have a role in Total Maximum Daily Load (TMDL) implementation.

Cupp posed the question of whether the LWCB could have a role in nutrient management planning evaluation. Jelinski reported that the UW Extension, along with other agencies, is currently putting together a framework for this type of evaluation. He will share the draft with the LWCB at the October meeting. The Officers decided to keep evaluation as a role for the LWCB.

Item #3 Review assignments and set date for next LWCB Officers meeting


Caneff offered to put the draft report together for the October 6th LWCB meeting. The October 6th date or shortly thereafter would begin the 3-week public comment period. DATCP staff will assemble public comments on the report. Pielsticker will get legal counsel's opinion on the earlier discussion on the LWCB's authority over the allocation plan. Cupp will send the letter to DNR with a request for an answer prior to the October 6th LWCB meeting.

The Officers decided to hold their next meeting on November 9th from 10 a.m. to 12 p.m.

Adjourn

The meeting ended at 3:40 p.m.

Respectfully submitted,



Denny Caneff, Secretary 10/6/09
Date

Recorder: LP

MINUTES
LAND AND WATER CONSERVATION BOARD
OFFICERS TELECONFERENCE MEETING
August 17, 2009

Boardroom 106, DATCP
2811 Agriculture Drive, Madison, Wisconsin

Item #1 Call to order: open meeting notice, roll call, and approval of agenda

Chairman Cupp joined the meeting by phone and called the meeting to order at 1 p.m. Roll call was taken. LWCB officers present at DATCP were Tom Rudolph and Denny Caneff. LWCB Advisors present at DATCP were Julian Zelazny, WLWCA; Kurt Calkins, WALCE; and Ken Genskow, UW Extension. DATCP staff present were Dave Jelinski by phone and Lori Price at DATCP.

Cupp presented the agenda for approval. Rudolph made a motion to approve the agenda, and Caneff seconded motion. The motion passed.

Item #2 Discuss joint LWCB, DATCP, and DNR report on recommended statutory changes to the LWCB's responsibilities and authorities

Cupp suggested going through each one of the future roles and responsibilities the LWCB determined in its August 2008 strategic plan report to determine if they were still relevant to the Board's future.

Directly approve LWRM plans. The Officers discussed that at the 5-year mark during a 10-year plan cycle, the county could address the LWCB with plan achievements and concerns. The Officers also discussed whether there would be a problem approving plans directly because of the concerns with lack of rule-making authority or the possibility of approving a plan that might conflict with ATCP 50. The Officers decided to move forward with requesting direct approval and possible rule-making authority for county LWRM plans.

Review and comment on the current allocation plan for nonpoint expenditures. The discussion focused on the need to engage DNR into a more active role in the joint allocation process; the need for the allocation plan to address other conservation priorities, beyond the state priorities, such as those in county LWRM plans; the need for a different funding strategy; the need to strengthen county input into plan; the possibility of a forum to bring input into the plan; the possibility of including other grants into the allocation process; and the need to strengthen funding for county staff. Jelinski suggested the LWCB consider how it can take on the task of managing the allocation plan in a meaningful way without getting involved in its disagreements, add value to the allocation of the funds, and be an advocate for funding priorities. The LWCB should also keep in mind that both departmental Secretaries will have to review this request. The Officers

agreed that the LWCB should assume management of the allocation plan if the DATCP and DNR Secretaries agree to this change, or, if they object, retain responsibility of review and comment on the plan.

Advise the UW system on needed research and education. The Officers first clarified that the original strategic plan indicated that this item was an optional activity with the Board's suggested change of "shall" to "may" in § 92.04(2)(g). The Officers discussed the need for working with the UW on research and education, the possible difficulty of working with a complicated UW system, and the connection between the LCDs and the UW. They discussed adding the program evaluation duty with this activity and including a UW member on the LWCB. The Officers agreed that this activity should be kept and add the evaluation activity to it.

Provide a forum for discussion of emerging issues related to soil and water conservation in Wisconsin. The Officers discussed the importance the forum function as a means for the LWCB to obtain input on important issues, defining the forum function to include internal and external meetings, and the possibility of holding forums through the use of modern technology. The Officers decided to keep this activity.

Recommend policy options to address soil and water conservation issues based upon citizen input. The Officers discussed whether this was the same activity as forums but decided to keep it as a separate activity.

Recommend funding priorities to agencies during the state budget cycle. The discussion began with the comment that this activity could become obsolete if the LWCB takes over management of the joint allocation plan. However, the Officers decided to maintain this duty as it could address other conservation programs outside of the allocation plan.

Build communication linkages with state NR and ATCP Boards. The Officers discussed how often communication between the two state boards and the LWCB might take place, what form that communication would take, and the communication could center around land and water conservation issues and possible recommendations for the two agencies. They decided that this activity should be kept with a minimum of an annual appearance before the two boards.

Serve a role in protecting working lands in Wisconsin. The Officers discussed whether the LWCB would have a role in this activity with the passing of the Working Lands Initiative. The roles might be in conservation compliance, which was noted is actually in the allocation plan, and program evaluation. Otherwise, the Officers saw no role for the LWCB in this activity.

Cupp noted the Officers received comments on future LWCB activities from Caneff and Zelazny prior to today's meeting. He requested to address the issue of LWCB membership as mentioned in Caneff's memo. The Officers discussed additional county representation, FSA and NRCS ex officio representation, and large producer representation on the LWCB. The Officers agreed that

LWCB membership be discussed after the LWCB duties and responsibilities are set. The Officers will discuss membership further at their next meeting.

Item #3 Review assignments and set date for next LWCB Officers meeting

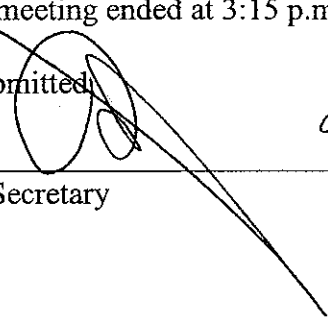
The Officers set September 16, 2009, from 1-4 p.m. as their next meeting date. The meeting will be at DATCP in Madison.

Caneff will write up today's meeting highlights and share the document with the other LWCB Officers and Advisors before sharing it with DNR and DATCP staff. Caneff and Jelinski will contact DNR to clarify the agency's role on the LWCB. Jelinski will contact the DATCP Secretary and DNR Secretary via DNR staff to get feedback on the LWCB taking over the allocation plan. Caneff will contact FSA and NRCS to get their thoughts on participating as ex officio members on the LWCB.

Adjourn

Rudolph made a motion to adjourn the meeting, and Caneff seconded the motion. The motion passed, and the meeting ended at 3:15 p.m.

Respectfully submitted,



Denny Caneff, Secretary

9/16/09

Date

Recorder: LP

AUGUST 2008 LWCB STRATEGIC PLAN

Recommendations for LWCB Future Roles and Responsibilities

August 2008

This report is the final product of an extensive strategic planning process conducted by the Land and Water Conservation Board (LWCB), and represents the LWCB's best thinking on its future mission, roles and structure.

Background

Oversight of state soil and water conservation programs by a statewide body has existed since 1937. Over this 70-year period, the body has been restructured to maintain the function and relevance of a statewide body to changing state needs. The last major restructuring occurred in 1993. Since that time, state programs for which the LWCB has responsibilities have evolved. New state administrative rules for controlling nonpoint sources of pollution were promulgated, and the Priority Watershed and Lakes program will end in 2009. In addition, changes to the Farmland Preservation Program have been proposed, which would further alter the role of the LWCB. Changes to the LWCB are necessary to account for this program evolution and to ensure continuation of a relevant role for a statewide body in soil and water conservation programs, including integration of statewide partners and programs. Attachment A of this report provides a detailed history of the LWCB.

Beginning in 2007, the LWCB began the formal process of strategic planning to identify possible roles for this statewide body in the future, and to develop recommendations for the role of a statewide board in state conservation programs. The LWCB met four times to review existing authority and duties, identified areas where their responsibilities no longer fit current requirements, and examined new roles for the Board. They engaged stakeholders to receive input into their planning process.

The final product of the process is this report which includes the Board's (1) mission statement, (2) recommendations for future roles and responsibilities, (3) statutory changes to support new program directions and remove out-dated functions, and (4) structural changes.

1. Mission Statement

The mission of the LWCB is to help protect the health of the soil and water of the state by overseeing land and water conservation programming and planning, and acting as a forum for land and water conservation issues.

2. Roles and Responsibilities

The LWCB provides coordination, policy recommendations, and strategic oversight in regard to the delivery of conservation, runoff control, and land use programs in Wisconsin. Reflective of this broad mission, the board has a range of responsibilities and functions involving conservation planning, providing funding and policy recommendations, protection of working lands, program evaluation, information sharing, promotion of research and education, and communication building.

Recommendations for LWCB Future Roles and Responsibilities

August 2008

Throughout this planning process, members recommended board activities that speak to the mission, and maintain the board's role in administration and coordination of statewide programs related to control of nonpoint sources of pollution, while increasing their role in policy making at the state level. The following summarizes the activities recommended as future roles and responsibilities for the LWCB:

- Directly approve LWRM plans
- Review and comment on the current allocation plan for nonpoint expenditures
- Evaluate DATCP's soil and water program and DNR's nonpoint programs
- Provide a forum for discussion of emerging issues related to soil and water conservation in Wisconsin
- Recommend policy options to address soil and water conservation issues based upon citizen input
- Advise the UW System on needed research and education
- Recommend funding priorities to agencies during state budget cycle
- Build communication linkages with state NR and ATCP boards
- Serve a role in protecting working lands in Wisconsin

A detailed discussion of each recommendation follows and is organized into three main categories:

1. Maintaining programmatic administration of state conservation programs
2. Increasing the LWCB's role in statewide water and land conservation policy
3. Maintaining a role in statewide land use programs, with a specific focus on agricultural land protection programs

Maintaining programmatic administration of state conservation programs

- Directly approve LWRM plans. Currently the board is given the opportunity to recommend the plans for approval by the Secretary of the Department of Agriculture, Trade and Consumer Protection. The board recommends a change to the statute to allow the board to directly approve the LWRM plans.
- Review and comment on current allocation plan for nonpoint expenditures. The agencies present a plan to allocate nonpoint funds to the board each year. The board has the opportunity to ask questions and recommend changes to this plan. The board recommends maintaining this statutory responsibility.
- Advise the UW System on needed research and education. The board recommends maintaining the ability to advise the UW System on needed research and education programs. Currently, this role is identified in statute as a requirement, and the board recommends an adjustment to the statute to make this an optional authority.
- Evaluate DATCP's soil and water program and DNR's nonpoint programs. Currently, state statutes contain a role for the LWCB in evaluation of state programs. The LWCB

Recommendations for LWCB Future Roles and Responsibilities

August 2008

recommends retaining this role, clarifying the scope of these evaluative responsibilities, and strengthening its capability to perform this function. The role of a statewide body with respect to evaluation of statewide programs can help define parameters for measuring success, make recommendations to monitor state progress in achieving land and water goals, determine cost-effectiveness of programs, and use of evaluation results to recommend programmatic changes.

Increasing the LWCB's role in statewide water and land conservation policy

- Provide a forum for discussion of emerging issues related to soil and water conservation in Wisconsin. The LWCB strongly recommends serving as a forum for emerging natural resource issues in conservation programs. As a forum, the LWCB would provide an opportunity for high level, in-depth discussion on specific conservation issues (such as karst, carbon credits and biofuels). A component of this role would include providing increased opportunities for citizen input, and greater dialogue on the issues. By functioning as a forum, the statewide body would be better able to promote partnerships and increase public support for conservation activities. Ultimately, this forum function would result in the LWCB developing relevant policy recommendations based on an emerging or an existing resource issue. It may also help to identify areas where additional research and education are necessary, or where future evaluation may be useful. This recommendation may benefit from clarification of this role in state statute.
- Recommend policy options to address soil and water conservation issues based upon citizen input. The ability to provide policy recommendations to state agencies is an important function of the LWCB, which is a citizen board. This is already allowed under current statutes, and the board recommends increased use of this right.
- Recommend funding priorities to agencies during state budget cycle. The board recommends increased communication with state agencies regarding budget priorities. This is allowed under existing statute and should be retained.
- Build communication linkages with state NR and ATCP boards. The board recommends increasing interaction between state boards responsible for addressing soil and water conservation issues in the state. The board would like to appear annually before either of these boards, or at joint meeting of these boards, to provide an update and have a dialogue on LWCB activities.

Maintaining a role in statewide land use programs, specifically for agricultural land protection programs

- Serve a role in protecting working lands in Wisconsin. Currently, the LWCB has responsibility for administration of the existing Farmland Preservation Program. Proposed changes to this program would significantly alter the role of a statewide body in future land use planning and agricultural land protection activities. The LWCB recommends maintaining a role for a statewide body in any revised statewide land use and agricultural land protection program. The members of the LWCB are aware that

Recommendations for LWCB Future Roles and Responsibilities

August 2008

other initiatives may drive statutory changes to the LWCB in the area of land use, agricultural land protection and the Farmland Preservation Program. The LWCB also recently explored the importance of forestry to soil and water conservation in Wisconsin. There is already a well-established network of agencies, organizations and councils to address forestry related issues. The board recommends increased communication and cooperation with these groups.

3. Statutory Changes Required

To fully accommodate the recommendations of the LWCB for restructuring the statewide body, some changes to existing statutes will be required. The LWCB recommends that responsibilities for programs that have ended or will soon end should be removed from the statutes. The LWCB also recommends that responsibility for activities no longer performed by the LWCB be eliminated from state statute. Existing statutory provisions may need to be updated to articulate any future role of a statewide body with respect to specific responsibilities, such as advising the UW System or evaluation of statewide programs. Addition of statutory provisions may be required to enable the LWCB to take on other responsibilities as recommended, including serving as a forum for emerging issues or providing land use policy recommendations. Attachments B and C provide detailed recommendations for changes to chapters 92 and 281 of existing statutes as approved by the LWCB. Additional changes or additions may be required to fully implement the LWCB recommendations.

4. LWCB Structure

The LWCB recommends maintaining the current structure of the board. The LWCB members recognize that changes in the structure of the statewide body, however, may be required to account for changes in the body's function and the composition of the board may need to be reconsidered to re-engage high level members of partner groups and agencies.

History of State Conservation Boards in Wisconsin

Compiled by DATCP, October 2007

1937 - Wisconsin Soil Conservation Committee (SCC)

Creation: Created by the Wisconsin Soil Conservation Districts Law, effective July 3, 1937. The SCC's responsibilities were identified in Chapter 92 of Wisconsin State Statutes.

Membership:

- Assistant Director of the Wisconsin Agricultural Experiment Station
- State Director or Associate Director of Agricultural Extension
- Two farmers (appointed by Governor); 1 (added 1939); 1 (added 1957)
- Appointee of the United States Secretary of Agriculture
- Director of State Conservation Department (1958)

Responsibilities:

- Legal creation of soil conservation districts; accept petitions for establishment of districts through hearing and majority vote of land occupiers in a referendum
- Approve, coordinate and supervise the programs of the districts or projects, apportion funds from state and federal sources, be the sole agency through which government aid in erosion control can be extended to private lands, and accept contributions of money to fund erosion control work
- Provide education and information on soil conservation activities
- Powers over personnel including determination of compensation for district supervisors and the members of the board of adjustment; hire staff to serve the Board
- Make surveys, conduct evaluations and do soil erosion control work outside of established districts
- Promote and provide assistance to watershed programs under P.L. 566 (1954); including administrative activities including review and approval authority of work plans under P.L. 566

1961 - Wisconsin Soil and Water Conservation Committee (SWCC)

Creation: Soil Conservation Committee is changed to the Soil and Water Conservation Committee by state law on April 29, 1961. The SWCC's responsibilities were identified in Chapter 92.

Membership: Same as SCC

Responsibilities:

- Maintains SCC responsibilities
- Administration of a new cost-sharing program, Wisconsin Outdoor Recreation Act Program (ORAP) assigned to the SWCC (AB 616, Chap. 427, Laws of 1961)
- Administration of a state aid program (Chapter 511, Laws of 1965) created under section 92.20 to provide an annual appropriation to districts

1967 - Soil Conservation Board (SCB)

Creation: The Wisconsin Soil and Water Conservation Committee was changed to the Soil Conservation Board by in 1967. This change attached the Board to the University of

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Wisconsin – Extension, which became responsible for the Board's budget and program coordination. The SCB's responsibilities were identified in Chapter 92.

Membership:

- Four farmer members
- Representative of the Dean of the College of Agriculture
- Staff of the College of Agriculture engaged in extension work
- Representative of the soil and water conservation district supervisors
- Representative of the Wisconsin Conservation Department
- Appointee of the U.S. Secretary of Agriculture as advisor

Responsibilities:

- Retained the functions prescribed in Chapter 92 including rule making, policy making and regulation
- Maintained responsibilities with respect to approval and coordination of soil and water conservation district programs and projects, allocation of funds from state and federal sources to the districts, and to accept contributions of money to carry on erosion control work
- Maintained responsibilities to assist supervisors of districts and facilitate information transfer between supervisors, and to secure cooperation and assistance of any governmental agency
- Maintained supervisory responsibility over programs provided by P.L. 83-566, as amended related to the planning and carrying out of works of improvement for soil and water conservation and other purposes
- Added the responsibility to advise the university in carrying out its educational functions
- Eliminated authority to employ staff
- Transferred the function for creating artificial lakes to the DNR (component of the ORAP)

1972 - Board of Soil and Water Conservation Districts (BSWCD)

Creation: The Soil Conservation Board was changed to the Board of Soil and Water Conservation Districts (BSWCD) in 1972. The BSWCD's responsibilities were identified in Chapter 92.

Membership:

- Four farmer members appointed by the Governor
- Four area representatives (district supervisors)
- Six advisors from federal and state agencies including UW College of Agriculture and Life Sciences, the Agricultural Stabilization and Conservation Service (USDA) and the Soil Conservation Service (USDA), UW-Cooperative Extension, DNR, DATCP

Responsibilities:

- Provide assistance to districts through coordination of statewide activities, and dissemination of information and education to enable the local districts to craft their own policy
- Distribute state funds available for administration and cost-sharing
- Initiate local efforts to identify sources and causes of water quality problems and solutions and coordinate these local efforts statewide as part of the State Water Quality Management Program

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- Assist the DNR and SWCDs in planning and coordination of the priority projects selected through the Wisconsin Nonpoint Source Water Pollution Abatement Program.

Other:

- During 1981, the BSWCD worked with others on the major revision to Chapter 92 which established the current system of LCC and LCDs.
- The Legislative Audit Bureau conducted an audit of the BSWCD in 1980 recommending the Board's role in solving the state's soil erosion problems be expanded to include additional staffing and funding, requiring mandatory soil erosion control, and prioritizing areas of severe erosion in which to focus current and future state programs. If the Board's role is not expanded, the audit recommended repealing this Board.
- In December of 1980, the BSWCD endorsed attachment to DATCP. The ATCP Board also endorsed this move, but on the condition that they would set policies for the program.

Abolished: The BSWCD was abolished in 1982 by Chapter 346, Laws of 1981.

1977 - Agricultural Lands Preservation Board

Creation: The Agricultural Lands Preservation Board in Wisconsin was created in 1977. This Board was attached to DATCP for administrative purposes and was separate from the BSWCD. The Board's responsibilities were identified in Chapter 91 of Wisconsin State Statutes.

Responsibilities: The Board's responsibility was to direct the Farmland Preservation Program.

1982 - Land Conservation Board (LCB)

Creation: In 1982, the Land Conservation Board was formed, consolidating the roles and responsibilities of the former Board of Soil and Water Conservation Districts (BSWCD) and the Agricultural Lands Preservation Board. The LCB was attached to DATCP for administrative purposes. The LCB's responsibilities were identified in Chapter 92 of Wisconsin State Statutes.

Membership:

- Secretary of DOA
- Secretary of DATCP
- Three members of county LCCs elected at annual conference
- Two public members appointed by the Governor
- Secretary of DNR (through later amendment 1982)

Responsibilities:

- Advise the Board of Agriculture and DATCP on issues related to soil conservation
- Administer the state soil conservation program established through the revisions to Chapter 92
- Administer the Farmland Preservation Program
- Recommend approval by DATCP of animal waste management plans
- Recommend approval of the allocation of state funding

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1993 - Land and Water Conservation Board (LWCB)

Creation: In 1993, the Land Conservation Board (LCB) becomes the Land and Water Conservation Board (LWCB). The LWCB's responsibilities are identified in Chapter 92 of Wisconsin State Statutes.

Original Membership:

- Secretary of DOA
- Secretary of DATCP
- Three members of county LCCs elected at annual conference
- Two public members appointed by the Governor
- Representative from a governmental unit involved with river management appointed by the Governor
- Representative from a Lake Management organization elected by the Lake District Association
- Secretary of DNR

Current Membership:

- Secretary of DOA or designee
- Secretary of DNR or designee
- Secretary of DATCP or designee
- Three members of county LCCs elected at annual conference
- One member nominated by the Governor and confirmed by the Senate
- Four members nominated by the Governor and confirmed by the Senate. One must be a resident of a city with a population of 50,000 or more, one must represent a governmental unit involved in river management, one must be a farmer, and one must be a member of a charitable organization devoted to natural resource preservation

Responsibilities:

- *Nonpoint Source Pollution Program (Priority Watershed and Lake Program)*
 - Approve project designation and establish priority for funding allocations
 - Review lists and reports related to impaired watersheds and lakes and select priority projects. (Last selection made in 1995)
 - Advise DNR on appropriations for the program and funding priorities
 - Recommend changes to improve the efficiency or effectiveness of the program
- *Land and Water Resource Management Planning and Soil and Water Resource Management Program*
 - Review and advise DATCP on the approval of county LWRM plans
 - Review and advise DATCP and DNR on annual grant allocations to counties
- *Farmland Preservation*
 - Certify county agricultural preservation plans (a county must have a certified plan in order for farmers to claim tax credits)
 - Certify county and local exclusive agricultural zoning ordinances (farmers may claim tax credits if they are covered by a certified ordinance). A certified ordinance must be consistent with the certified county plan
 - Approve county soil and water conservation standards (farmers claiming tax credits must comply with these standards)
 - Approve and grants releases from farmland preservation agreements in certain special cases
- *Rule-Making.* The LWCB has authority to promulgate rules to implement its powers and duties under Chapter 91 (Farmland Preservation). The LWCB has the authority to review, but not promulgate rules under Chapter 92 and Chapter 281.65

Wisconsin Land and Water Conservation Board (LWCB)

Proposed Changes to LWCB's Statutory Responsibilities Under Ch. 92

Note: Changes are identified through strikeout (delete language) and underlining (add language). The provisions without such formatting will remain unchanged.

SOIL AND WATER RESOURCE MANAGEMENT PROGRAM

<u>Cite</u>	<u>Language</u>
92.04(1)(a)	The board may hold public hearings in the performance of its functions.
92.04(1)(b)	The board may delegate to its chairperson or to one or more of its members any of its powers or duties.
92.04(1)(c)	The board may make studies and recommendations on matters relating to soil and water conservation.
92.04 (2)(a)	The board shall advise DATCP and the DATCP secretary on matters relating to exercise of DATCP's authority under this chapter.
92.04(2)(b)	The board shall review <u>approve or disapprove</u> land and water resource management plans prepared under s. 92.10, and make recommendations to DATCP on approval or disapproval of those plans.
92.04(2)(c)	The board shall review soil and water conservation standards prepared under s. 92.105. The board shall establish guidelines for the approval of these standards.
92.04(2)(d)	The board shall review annual grant allocation plans developed under s. 92.14 (6)(b) and make recommendations to DATCP on approval, modification or disapproval of the plans.
92.04(2)(e)	The board shall review the evaluation plan prepared under s. 92.14(13). After its review, the board shall make recommendations on the plan to DATCP and the DNR.
92.04(2)(f)	The board shall review the annual reports under ss. 92.14(12) and 281.65(4)(o).
92.04(2)(g)	The board shall <u>may</u> advise the University of Wisconsin system annually on needed research and educational programs relating to soil and water conservation.
92.04(2)(h)	The board shall review compliance with state soil erosion control goals established under s. 92.025. The board shall notify DATCP and the legislature if these goals are not achieved or if it is unlikely that these goals will be achieved.
92.04(2)(i)	The board shall establish a tolerable erosion level based on an erosion rate which is acceptable and maintains long term soil productivity.
92.04(2)(j)	The board shall keep a full and accurate record of all proceedings before it and all actions taken by it.

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- 92.04(2)(k) ~~The board shall review and affirm or reverse pollution abatement determinations made by county land conservation committees under s. 281.20(3)(b) when requested to do so under the provisions of s.281.20(5).~~
- 92.04(2)(L) ~~The board shall review and affirm or reverse critical site determinations made by county land conservation committees under s. 281.65(7)(a)2. when requested to do so under the provisions of s.281.65(7)(b).~~
- 92.04(3)(a) The board shall review all rules of DATCP relating to implementation of Chapter 92 prior to promulgation. (Note: The board has no rule-making authority on matters relating to soil and water conservation.)
- 92.10(1) DATCP, the board and land conservation committees jointly shall develop and administer the land and water resource management planning program.
- 92.10(5)(a) The board shall ~~review~~ approve or disapprove land and water resource management plans submitted by the land conservation committees ~~and make recommendations to DATCP.~~
- 92.10(5)(b) The board shall may solicit comments on land conservation committee plans [land and water resource management plans] from the agencies identified as advisers to the board.
- 92.105(2)&(3) ~~The board shall develop guidelines...for the administration of soil and water conservation standards. [This includes standards used in the farmland preservation program.] The board shall review and approve or disapprove standards....~~
- 92.14(6)(d) The board shall review the annual allocation plan submitted...and make recommendations to DATCP and DNR on approval, modification, or disapproval of the plan.
- 92.14(12) The board shall review annual reports [on the SWRM program] provided by DATCP and DNR.
- 92.14(13) The board shall make recommendations to DATCP and the DNR on the joint [program evaluation] plan, which includes water quality monitoring, and analysis, for the program administered under ss. 92.14 and 281.65, Stats.
- 92.17(2)(c) ~~The board shall review drafts of shoreland management ordinances and make recommendations to DATCP for approval or disapproval.~~

Wisconsin Land and Water Conservation Board (LWCB)

Proposed Changes to LWCB's Statutory Responsibilities Under Ch. 281

Note: Changes are identified through strikeout (delete language) and underlining (add language). The provisions without such formatting will remain unchanged.

NONPOINT SOURCE WATER POLLUTION ABATEMENT PROGRAM

<u>Cite</u>	<u>Language</u>
281.65(3)(a)	The board shall review the list, prepared by the DNR, of watersheds and lakes that have impaired waters caused by nonpoint source pollution.
281.65(3)(am)	The board shall designate priority watersheds and priority lakes.
281.65(3)(ap)	The board shall review and approve priority land and priority watershed plans.
281.65(3)(at)	The board shall review rules drafted under [s. 281.65, Stats.] and make recommendations regarding the rules before final approval of the rules by the natural resources board.
281.65(3)(b)	Before September <u>March</u> 1, of each even-numbered year, the board shall submit a report to the governor and the department <u>Secretary of the DNR</u> <u>the Secretary of DATCP</u> that includes makes recommendations for the amount <u>of funds</u> to be appropriated for the NPS program for the next biennium and any changes that would improve the efficiency or effectiveness of the NPS program.
281.65 (3)(b)(bm)	The board shall submit, as it deems necessary, to the governor and the DNR a report that includes: (1) recommendations for the amount to be appropriated for the program, and (2) any changes that the board determines would improve the efficiency or effectiveness of the program. (Accept as council activity.)
281.65(3)(c)	The board shall assist counties, <u>DATCP</u> and the DNR to resolve concerns about the <u>NPS</u> program.
281.65(3)(d)	The board shall establish priorities for the allocation of funds in the event that program needs exceed available funding in any fiscal biennium. (Remove not needed as long as Board is making general program improvement and budgetary recommendations.)

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- 281.65(3)(e) ~~The board shall request the building commission to authorize public debt to be contracted in the amount that the board determines to be necessary for the purposes of the program.~~
- 281.65(3)(f) The board shall recommend that ~~require~~ DNR and DATCP ~~to conduct or contract for another person to conduct any evaluation of the program under this section. and of individual priority watershed or priority lake projects that the board determines is necessary.~~
- 281.65(3m) ~~The board shall identify priority lakes and watersheds by July 1, 1998, based on the list submitted by the DNR and recommendations from the DNR and DATCP. The board shall identify priority lakes and watersheds using the provisions of s.281.65 (3m).~~
- 281.65(4)(L) ~~Before September 1 of each year, the board shall review a budget report, submitted by DNR [in consultation with DATCP], that includes anticipated expenditures for priority lake, watershed, and targeted runoff management projects for the next year and criteria for ending these projects. If the anticipated expenditures exceed available funding, the report must also include a plan for reducing expenditures.~~
- 281.65(4c)(c) After receiving priority watershed, priority lake, or any NPS pollution abatement project target runoff management scores, and DNR recommendations on funding those projects no later than September 1 of each year, the board shall recommend projects for funding under s.281.65 in the following year.
- 281.65(5s) ~~The board shall review , and affirm, modify or reverse any modifications made by the DNR to priority lake or watershed plans, including designating additional sites as critical sites.~~